

## **LR 2200-1 Authorization of Bankruptcy Appellate Panel (BAP) to Hear and Determine Appeals**

### **(a) Jurisdiction**

Pursuant to 28 U.S.C. § 158(b)(6), this court authorizes a bankruptcy appellate panel ("BAP") to hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges from this district, subject to the limitations set forth in LR 2200-1(b) and (c).

### **(b) Consent Required**

The BAP may hear and determine only those appeals in which all parties to the appeal consent pursuant to [LR 2200-2](#).

### **(c) Scope**

The BAP may hear and determine appeals from final and interlocutory judgments, orders and decrees entered by bankruptcy judges after July 10, 1984, and appeals transferred to this court from the previous Ninth Circuit BAP by § 115(b) in the Bankruptcy Amendments and Federal Judgeship Act of 1984, P.L. 98-353.

## **LR 2200-2 Form and Time of Consent to Allow Appeal to Be Heard and Determined by Bankruptcy Appellate Panel**

### **(a) General**

The consent of a party to allow an appeal to be determined by the BAP will be deemed to have been given unless written objection thereto in accordance with Fed.R.Bankr.P. 8001 is filed either:

**(1)** With the notice of appeal or motion for leave to appeal; or

**(2)** By any party other than the original appellant, with the bankruptcy court clerk within thirty (30) days from the date of filing such notice or motion. When an appellant files both a notice of appeal and a motion for leave to appeal, consent will be deemed revoked if an objection to BAP

determination is filed with respect to either pleading.

### **(b) Effect of a Timely Objection**

Upon timely receipt of a written objection to an appeal being heard and determined by the BAP, jurisdiction over the appeal will be immediately transferred to the district court, the appeal will be governed by the provisions of [LR 2200-6](#) , and the bankruptcy court clerk will not forward any appeal documents, or any further documents, to the BAP. If the objection is timely, but filed after some of the appeal documents have been transferred to the BAP, the BAP clerk will promptly return to the bankruptcy court clerk all appellate documents for administration under [LR 2200-6](#)

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### **(c) Objection Filed With Notice or Motion**

If a written objection, filed pursuant to [LR 2200-2\(a\)](#) , is filed with the notice of appeal or motion for leave to appeal, the bankruptcy court clerk will not be required to serve on the parties copies of LR 2200 or the Ninth Circuit Judicial Council's Amended Order Establishing and Continuing the Bankruptcy Appellate Panel of the Ninth Circuit nor forward any appeal documents to the BAP.

## **LR 2200-3 Service of Required Copies of Documents Upon the Filing of a Notice of Appeal or Motion for Leave to Appeal**

### **(a) If Appellant Files Written Objections to BAP With the Notice of Appeal or Motion for Leave to Appeal**

If the appellant files a written objection to BAP determination with the notice of appeal or motion for leave to appeal, then the appellant must simultaneously serve on all other parties to the appeal a copy of the objection; a copy of the notice or motion; and a copy of the judgment, order, or decree being appealed. Certification of such service must be attached to the original notice of appeal or motion for leave to appeal filed with the bankruptcy court clerk.

### **(b) If Original Appellant Does Not Simultaneously File an Objection to BAP Determination With the Notice or Motion**

If a written objection to BAP determination is not filed at the same time as the notice of appeal or motion for leave to appeal, the party filing such notice or motion must simultaneously file with the bankruptcy court clerk, for service, the following items for each party to the appeal (including the original appellant):

- (1) A copy of the original notice of appeal or motion for leave to appeal;
- (2) A conformed copy of the judgment, order, or decree being appealed; and
- (3) A stamped, addressed envelope.

In addition to service of the above documents, the bankruptcy court clerk will serve a copy of LR 2200 on each party to the appeal.

### **(c) Dispositive Orders Re Motions for Leave to Appeal**

A copy of any order disposing of a motion for leave to appeal will be immediately transmitted to the bankruptcy court clerk by the clerk of the appellate court which determined the motion.

## **LR 2200-4 Documents Filed During Objection Period**

All documents relating to the appeal must be filed with the bankruptcy court clerk during the objection period set forth in [LR 2200-2](#) even if a motion requiring BAP determination is filed before the termination of such period. The BAP may not dismiss or render a final disposition of an appeal within thirty (30) days from the date of the filing of the notice of appeal.

## **LR 2200-5 Docketing of Appeal and Appellate Record; Transmission of Appeal to Appellate Court**

### **(a) Appeals in Which Timely Objection to BAP Determination Filed**

As soon as the statement of issues, designation of record, and any transcripts that are designated are filed with the bankruptcy court, the bankruptcy court clerk will transmit to the district court clerk a certificate that the appellate record is complete. The district court clerk will then forthwith notify the parties of the date the certificate was filed with district court, and this date will constitute the date of entry of the appeal on the docket for purposes of Bankruptcy Rules 8007(b) and 8009. The district court clerk may request a copy of the record from the

bankruptcy court.

## **(b) Appeals in Which Timely Objection to BAP Determination Not Filed**

BAP Rule 8007(b)-1 applies.

## **LR 2200-6 Rules Governing Bankruptcy Appeals to Be Determined by the District Court Subsequent to Filing of a Timely Objection to BAP Determination**

### **(a) General**

Except as otherwise provided in these rules, practice in bankruptcy appeals which comes before the district court will be governed by Part VIII of the Rules of Bankruptcy Procedure. The provisions of [LR 2200-6](#) apply only after a party has timely filed a written objection to determination of an appeal by the BAP.

### **(b) Place of Filing**

All documents required or permitted to be filed by the district or bankruptcy court local rules or orders or other applicable law until the docketing of the appeal in the district court as defined in LR 2200-5, are to be filed with the bankruptcy court clerk. All documents filed in the appeal thereafter must be filed with the district court clerk.

### **(c) Extensions**

Unless reference of the case or proceeding underlying the appeal has been withdrawn, all motions for extensions of time periods relating to appellate procedures, until the docketing of the appeal in the district court as defined in LR 2200-5 are to be filed with the bankruptcy court clerk and determined by a bankruptcy judge.

### **(d) Simultaneous Notice of Appeal and Motion for Leave to Appeal**

If a notice of appeal and a motion for leave to appeal on the same matter are simultaneously pending, the motion for leave to appeal will be ruled on first. All time requirements arising at the filing of the notice of appeal, except for the thirty (30) day period provided in [LR 2200-2](#) for objection to BAP determination of the appeal, will automatically be stayed until the date of entry of the order on the motion for leave to appeal.

### **(e) Excerpt of Record**

The appellant's opening memorandum must be accompanied by an "Excerpt of Record." The Excerpt of Record must be separately bound, be prefaced by a Table of Contents, and contain true copies of all documents listed in Bankruptcy Rule 8009(b), along with any other portions of the bankruptcy files and records appellant has designated as part of the record on appeal and on which the party is relying on appeal, including the applicable portion of any transcript. An appellee may also file with its memorandum an Excerpt of Record containing materials required to be included but omitted by appellant, and/or other portions of the record upon which the appellee will rely. Copies used for the Excerpt of Record may either be made from the document in the bankruptcy court file or from a copy of that document which has been retained by the party. Copies need not be certified by the bankruptcy court clerk as a true copy of the original document. In deciding the appeal, the district court may consider only those portions of the bankruptcy court record that have been submitted in the Excerpts of Record.

### **(f) Time for Filing Memoranda / Motions for Extension of Time To File Memoranda**

The time for filing the appellant's memorandum, appellee's memorandum, and all reply memoranda will be 40 days, 30 days, and 14 days respectively, in lieu of the time limits specified in Bankruptcy Rule 8009(a). Any motion for extension of time to file a memorandum must be filed within the time limit prescribed by these rules for the filing of such memorandum and must be accompanied by a proof of service. The motion is to be supported by a declaration stating:

- (1) When the memorandum was initially due;
- (2) How many extensions of time, if any, have been granted;
- (3) Reasons why this extension is necessary;
- (4) The specific amount of time requested; and

(5) The position of the opponent(s) with respect to the motion or why the moving party has been unable to obtain a statement of such position(s).

Appellant's failure to file a memorandum timely may result in the dismissal of the appeal. A memorandum received after the due date may be stricken unless it is accompanied by a motion for an extension of time and the motion is granted. The court has no obligation to consider a late memorandum. Sanctions may be imposed, such as the waiver of oral argument, monetary sanctions, or dismissal.

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#### Amendment History to LR 2200

June 1, 2002

LR 2200 Rules numbers have been engrestyled to track the current distribution of local rules.

LR 2202-2(a)(1)

Reference to Fed.R.Bankr.P. 8001 are added to this subsection.

LR 2200-2(a)(2)

The words "other than the original appellant" have been added to this subsection.

LR 2200-4

Amended the twenty-one day notice of appeal time limit to thirty (30) days to

LR2200-6

Amended the twenty-one day notice of appeal time limit to thirty (30) days to

November 1, 2002

LR 2200-3(b)(3)

Language of subsection (b)(3) requiring submission of Local Form #800 deleted.

December 1, 2009

Generally

The word "shall" replaced by "must" or "will." The word "brief" replaced by "memorandum."

LR 2200-5

Title change and elimination of previous text. New subsections (a) Appeals i

LR 2200-6

Edit of subsections (b) and (c), and rewrite of (e) Excerpt of Record.

LR 2200-6(f)

Title change to include Motions For Extension of Time To File Memoranda a